## REMARKS

This communication responds to the Office Action of November 25, 2009, in which Claims 21-40 have been rejected under 35 U.S.C. §103. In view of the amendments and the following remarks, Applicant requests reconsideration and allowance of the pending claims.

## Claim Rejections – 35 U.S.C. §103

### Claim 21

Claims 21-25, 27-32, and 39-40 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Publ. No. 2001/0004397 (Kita et al.) in view of U.S. Publ. No. 2003/0055516 (Gang et al.). Applicant traverses the rejection for at least the following reasons.

Amended Claim 21 is directed to a player for storing and playing back media content received from at least one remote content source pursuant to stored user content preferences. In this regard, the player comprises, in part, "a storage medium in the player for storing data representing user content preferences, said user content preferences data based at least in part on user inputs accepted at the player and usage file data collected on the player" and "a first instruction component for . . . wireless downloading onto the media content storage medium one or more content files responsive to the player-stored user content preferences, said first instruction component performing player-initiated content downloads using player-stored user content preferences to locate content at the at least one remote content source."

Neither Kita et al. nor Gang et al., alone or in combination, teach or suggest Applicant's claimed invention. With respect to Kita et al. the Office acknowledges that Kita et al. fail to disclose "that the music downloaded by external device 800 is downloaded responsive to *stored user content preferences*, let alone a storage medium for storing those preferences." Office Action, p. 4. However, the Office asserts that the prior art makes obvious using stored user preferences to assist in downloading new music from a music distribution service site. Office Action, p. 4. Particularly, the Office asserts that Gang et al. disclose storing a user profile with preferences to direct the downloading of new music. Office Action, p. 4. To this end, the Office asserts that "implementing the teachings of *Gang* in the device of *Kita* one would further modify

either the *Kita* player 100 or external device 800 to include a storage medium like that of [Claim 21's] second element since *Gang* discloses that the music reproducing apparatus stores a log file of user actions indicating a user's preference for music, as well as a file of explicit user ratings for music downloaded to the player." Office Action, p. 5.

As discussed in Applicant's previous response, all download sources have some limitations as to content. Some are specialized to a single artist and a few songs; others have large catalogs from which user selections can be made. But, even such large catalogs have limitations. Thus, the offerings from any single music delivery source or system may not meet all of a user's desires. In addition, to the extent the user must search for desired content, the search must necessarily follow the specific interface and use the particular metadata that a site makes available.

The present player attempts to increase user choice and convenience in selecting and placing content on the player and in replaying it in different modes. Particularly, Applicant's system is a player- and user-centric approach that allows the users to specify their preferences directly, eliminating the need for error prone or biased predictions and allowing a user's content preferences to be applied by the user to several different content providers. The content preferences can be sent out by the player to any content source to let the user ask for the content that the user wants, without the user being confined by a content sources suggestions or selection menu.

In this regard, the player of amended Claim 21 comprises "a storage medium in the player for storing data representing user content preferences, said user content preferences data based at least in part on user inputs accepted at the player and usage file data collected on the player." In addition, the player of amended Claim 21 comprises "a first instruction component for . . . wireless downloading onto the media content storage medium one or more content files responsive to the player-stored user content preferences . . ." These features, for example, allow the player to track continuous and/or up-to-date (e.g., day-to-day, hour-to-hour, minute-to-minute, etc.) changes in the user's content preferences by storing "user inputs accepted at the player and usage file data collected on the player."

Gang et al. do not teach nor suggest such features. In contrast, Gang et al. merely disclose that the core of their invention "is a system capable of predicting whether a given user, i.e., customer, likes or does not like a specific song from a pre-analyzed catalog." Para. [0013]. The musical taste and/or preferences of the user are predicted according to the reactions of the user to a set of musical selections. Para. [0018].

The Gang et al. system features a server 70 for controlling the operation of a number of rating components. Para. [0061]. The server is in communication with a client 72, which is operated by a user mobile device 74. Para. [006]. A database 84 maintains all relevant information including information about the customers and musical preferences. Para. [0063]. In the detailed embodiment, Gang et al. disclose that the Recommendation Engine 82 selects a set of songs, such as by random, from the main memory for sending to the user. Para. [0068]. The user then listens to the selected songs and records whether these songs are preferred. Para. [0069]. The Recommendation Engine uses some learning algorithms to recommend and prepare the songs' vectors for recommendation Control module 80, and the Communication interface 76 sends a list of the recommended songs to the client. Paras. [0071]-[0072].

In an alternative embodiment, Gang et al. disclose that the "system can gather information about the user's taste indirectly from a log file of prior actions, including but not limited to, listening music, saving music in a folder or buying musical items, or a combination thereof." Para. [0078]. The Office appears to assert that the second and fourth elements of Applicant's Claim 21 (as identified in the Office Action on page 3) are taught by this feature of the Gang et al. system. See, Office Action, p. 5.

In contrast to the Office's assertion, however, in view of the surrounding paragraphs in the specification and in view of FIG. 1, the "log file" information discussed in paragraph [0078] of Gang et al. appears to be a log of interactions with the Gang et al. server, not a log file of player usage when not connected to the server. In this respect, the Gang et al. solution is not a player- or user-centric approach, but is a central system and seller-centered solution, relying on the seller's content server to glean information about the user to "predict" what content to (and not to) suggest to a user or download to the player. This method is a "we-can-figure-users-out" solution that is tied to a single content provider and its catalog.

As stated above, Gang et al. is not player-centric. Indeed, Gang et al. barely even mention the client device (e.g., the player). Nowhere do Gang et al. get into any detail of the client device or its components, nor does anything in Gang et al. infer that the client briefly mentioned ing Gang et al. is capable of the features claimed in Applicant's Claim 21. Specifically, nowhere do Gang et al. teach or suggest a player comprising "a storage medium in the player for storing data representing user content preferences, said user content preferences data based at least in part on user inputs accepted at the player and usage file data collected on the player" and "a first instruction component for . . . wireless downloading onto the media content storage medium one or more content files responsive to the player-stored user content preferences . . .," as recited in Applicant's Claim 21.

Thus, Claim 21 is not made obvious by Kita and Gang. Claims 22-25, 27-32, and 39-40 depend from Claim 21 and are patentable for the same reasons as Claim 21 and for the additional limitations recited therein. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 26

Claim 26 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Kita in view of Gang and further in view of U.S. Pat. No. 6,741,856 (McKenna et al.). Claim 26 is dependent on amended Claim 21, which, as discussed above, is patentable over the Kita-Gang combination. McKenna et al. do not cure the teaching deficiencies of Kita et al. and Gang et al. relative to Claim 21. That is, McKenna et al. do not teach nor suggest a player comprising "a storage medium in the player for storing data representing user content preferences, said user content preferences data based at least in part on user inputs accepted at the player and usage file data collected on the player" and "a first instruction component for . . . wireless downloading onto the media content storage medium one or more content files responsive to the player-stored user content preferences . . ." Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 33

Claim 33 has been rejected under 35 U.S.C. 03(a) as being unpatentable over Kita in view of Gang and further in view of U.S. Publ. No. 2003/0236582 (Zamir et al.). Claim 33 is dependent on amended Claim 21, which, as discussed above, is patentable over the Kita-Gang combination. Zamir et al. do not cure the teaching deficiencies of Kita et al. and Gang et al. relative to Claim 21. That is, Zamir et al. do not teach nor suggest a player comprising "a storage medium in the player for storing data representing user content preferences, said user content preferences data based at least in part on user inputs accepted at the player and usage file data collected on the player" and "a first instruction component for . . . wireless downloading onto the media content storage medium one or more content files responsive to the player-stored user content preferences . . ." Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 34-37

Claims 34-37 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Kita in view of Gang and further in view of U.S. Pat. No. 6,782,239 (Johnson et al.). Claims 34-37 are dependent on amended Claim 21, which, as discussed above, is patentable over the Kita-Gang combination. Johnson et al. do not cure the teaching deficiencies of Kita et al. and Gang et al. relative to Claim 21. That is, Johnson et al. do not teach nor suggest a player comprising "a storage medium in the player for storing data representing user content preferences, said user content preferences data based at least in part on user inputs accepted at the player and usage file data collected on the player" and "a first instruction component for . . . wireless downloading onto the media content storage medium one or more content files responsive to the player-stored user content preferences . . ." Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 38

Claim 38 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Kita, Gang, and Johnson and further in view of U.S. Pat. No. 5,161, 251 (Mankovitz). Claim 38 is dependent on amended Claim 21, which, as discussed above, is patentable over the Kita-Gang

combination. Mankovitz does not cure the teaching deficiencies of Kita et al. and Gang et al. relative to Claim 21. That is, Mankovitz does not teach nor suggest a player comprising "a storage medium in the player for storing data representing user content preferences, said user content preferences data based at least in part on user inputs accepted at the player and usage file data collected on the player" and "a first instruction component for . . . wireless downloading onto the media content storage medium one or more content files responsive to the player-stored user content preferences . . ." Reconsideration and withdrawal of the rejection are respectfully requested.

## Conclusion

This response is being submitted on or before May 25, 2010, with a request for an extension of time to that date and the associated fee, making this a timely response. It is believed that no additional fees are due in connection with this filing. However, the Commissioner is authorized to charge any additional fees, including extension fees or other relief which may be required, or credit any overpayment and notify us of same, to Deposit Account No. 04-1420.

This application now stands in allowable form and reconsideration and allowance is respectfully requested.

Respectfully submitted,

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